

Rogers et al. v. U.S. Dept. of Health and Human Servs., et al.
Civil Action No. 6:19-cv-1567-TMC

Exhibit J

**to Governor Henry McMaster's and Michael Leach's Motion for Summary Judgment and
Memorandum in Support Thereof**

Letter from Reid Lehman to Alex Azar (December 11, 2019)



December 11, 2019

Honorable Alex M. Azar II
Secretary, U.S. Department of Health & Human Services
200 Independence Avenue, S.W.
Washington, D.C. 20201

Re: Comment from Miracle Hill Ministries on HHS proposed rules to protect faith-based child welfare providers from discrimination in grant-making (RIN 0991-AC16).

Dear Secretary Azar:

I write on behalf of Miracle Hill Ministries in support of the Department of Health and Human Services' ("HHS") proposal to modify certain portions of 45 CFR part 75, including in particular 45 CFR § 75.300(c) and (d), which in 2017 was amended to impose requirements that have placed an undue burden on faith-based organizations like Miracle Hill that desire to provide valuable community services while maintaining their religious convictions and practices. As the foster care crisis in our nation worsens, it is not only right but also imperative that the regulation be modified to ensure faith-based organizations are welcomed in the pool of diverse providers capable of successfully recruiting and retaining foster and adoptive families.

Miracle Hill Ministries is a faith-based nonprofit organization that has been serving vulnerable children and adults in upstate South Carolina for more than 80 years. Our foster care division—Miracle Hill Foster Care—has served thousands of children in crisis, offering them stability and compassion, and working for reunification with their parents whenever possible. Our participation in the foster care system has strengthened hundreds of families in South Carolina and plays a vital role in supporting the state's mandate to provide homes for children in need.

Like many faith-based social services providers, we at Miracle Hill see our foster care work as compelled by, and an exercise of, our faith. In the Christian faith, for example, Scripture and Jesus himself command special care and solicitude be shown to children generally and to the needy and orphans particularly. *See, e.g., Matthew 18:5–10* ("Whoever receives one such

child in my name receives me. . . . See that you do not despise one of these little ones.”); *Mark* 10:14–16 (“Let the children come to me; do not hinder them, for to such belongs the kingdom of God.”); *James* 1:27 (“Religion that is pure and undefiled before God, the Father, is this: to visit orphans and widows in their affliction.”).¹

Miracle Hill gladly serves and respects children of every sex, race, color, national origin, religion, gender identity, or sexual orientation. Likewise, we gladly work with volunteers for most roles without regard to such factors. But because, as noted above, our foster care work is compelled by and is an exercise of our faith, Miracle Hill, like many faith-based providers, believes as a matter of religious conviction that we should only hire employees and only recruit, train, and supervise foster parents who share the our religious mission and beliefs. This has been our practice for decades, and dozens of decisions from the Supreme Court and lower courts have held such practices are permissible under the First Amendment, the Religious Freedom Restoration Act and civil rights laws.

Shortly after HHS’s 2017 amendment of 45 CFR § 75.300, however, and as a direct result of that regulation, Miracle Hill was put to an impossible choice: either abandon our religiously-compelled obligation to serve the vulnerable children in the foster care system, or abandon our religiously-compelled obligation to partner only with leaders, employees, and parents who share our faith. Specifically, the South Carolina Department of Social Services (“SCDSS”), citing to 45 CFR § 75.300(c) and (d), informed Miracle Hill that its license to serve as a foster care agency would be stripped unless Miracle Hill abandoned its religious beliefs as required by the federal regulation. This is the very definition of a substantial burden on the free exercise of religion, and HHS’ recently-proposed modification to 45 CFR § 75.300(c) and (d) is necessary to alleviate this substantial burden and should be finalized at the earliest possible opportunity.

Contrary to media reports claiming that the proposed modification will hinder certain populations from serving as foster or adoptive parents, the decision will actually allow participation by all, including those (like Miracle Hill) with religious affiliation. As noted above, Miracle Hill’s practice does not deprive anyone of the ability to serve as a foster parent.² Indeed, there are no fewer than eight other private foster care providers in our area, several of whom are located mere minutes away, plus the South Carolina Department of Social Services

¹ This religious compulsion is not unique to the Christian faith. For example, an oft-repeated teaching in the Jewish Tanakh (first appearing in the Torah, and then repeated in the *Nevi'im* and the *Ketuvim*) is that God is deeply and personally concerned with the care of fatherless children. See, e.g., *Deuteronomy* 10:18 (“God executes justice for the fatherless and the widow and loves the sojourner, giving him food and clothing”). This teaching is accepted as sacred by Muslims and Christians too, meaning it is scripture to almost 4 billion people—over half the world’s population, and more than 80% of Americans. See Pew Research Center, *The Future of World Religions: Population Growth Projections, 2010-2050*, Demographic Study (April 2, 2015), available at <http://www.pewforum.org/2015/04/02/religious-projections-2010-2050/>.

² Further, Miracle Hill *cannot* deprive anyone of the ability to serve as a foster parent. Miracle Hill does not license the foster homes or place children in them. Rather, SCDSS performs those roles. Instead, Miracle Hill recruits, qualifies, and encourages families to apply to the State to be licensed as foster families. If the State places a foster child in that family, Miracle Hill then offers ongoing training, encouragement, and administrative, spiritual, and practical support to the family.

(SCDSS) itself, all of whom work with any foster parents regardless of their religious beliefs or unbelief, orientation, or identity. Qualified individuals of any creed, orientation, or identity are welcome to serve as foster and adoptive parents in South Carolina and every other state, and the proposed modification would not alter that state of affairs.

We are most grateful that the current administration recognizes the need to welcome, not inhibit, faith-based providers in their efforts to support human flourishing. Local involvement and commitment to the success of our own communities are what make our nation strong. People of faith must be a part of the equation because the need is great and government resources are limited. Miracle Hill's desire and mission has always been to serve and love all people. It's what our faith compels us to do, and it's what we will continue to do as long as we can and for as many as we can.

Sincerely,

A handwritten signature in cursive script that reads "Reid Lehman". The signature is written in black ink and is positioned above the printed name and title.

Reid Lehman
President/CEO, Miracle Hill Ministries